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August 8, 1997

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AUG 08 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In re Review of the Commission's Rules  
regarding the main studio and  
local public inspection files of  
broadcast television and radio stations  
47 C.F.R. §§ 73.1125, 73.3526, and 73.3527  
(MM Docket No. 97-138)

Dear Mr. Caton:

Transmitted herewith on behalf of New Jersey Broadcasters Association is an original and four copies of its Comments in the above-referenced rule making proceeding.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

  
John F. Garziglia  
Patricia M. Chuh

Enclosure

cc: Victoria M. McCauley

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AUG 08 1997

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Review of the Commission's Rules ) MM Docket No. 97-138  
regarding the main studio and )  
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broadcast television and radio stations )  
 )  
47 C.F.R. §§ 73.1125, 73.3526 and 73.3527 )

COMMENTS

New Jersey Broadcasters Association<sup>1/</sup> ("NJBA"), by its attorneys, hereby respectfully submits its comments in response to the Commission's proposed main studio rule. See Notice of Proposed Rule Making, MM Docket No. 97-138, released May 28, 1997 (hereinafter "NPRM").<sup>2/</sup> Among other things, the Commission's proposed amendment seeks to ease regulatory burdens on broadcasters by providing more flexibility in station operations, while continuing to ensure that the public has reasonable access to the main studio of every station. NJBA favors the adoption of a main studio rule that gives broadcasters complete flexibility in choosing a location for a station's main studio. In support whereof, the following is respectfully submitted:

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<sup>1/</sup> New Jersey Broadcasters Association is a non-profit association representing the interests of radio and television stations licensed by the Commission to operate in New Jersey. The association seeks to provide information to its members through regional and annual meetings, publications, and newsletters on state and federal regulations and policies affecting the broadcast industry as well as changes and trends in the industry.

<sup>2/</sup> The NPRM established August 8, 1997 as the deadline for interested parties to file comments. Id. Thus, the instant comments of NJBA are timely filed.

## Introduction

1. In order to implement Section 307(b) of the Communications Act of 1934, the Commission established a scheme of distributing broadcast service in which every broadcast station is assigned to a community of license. This scheme established the service of a station's community of license as the primary obligation of every broadcaster. The public's access to each broadcast station's main studio (and local public inspection file) was deemed a central component of this scheme. Accordingly, broadcasters were required to maintain a station's main studio in its community of license.

2. In 1987, the Commission amended its main studio rule to permit broadcasters to locate a station's main studio outside of its community of license as long as that location was within the station's principal community contour. This last amendment, however, was still based on the assumption that the physical presence of a station's main studio within its principal community contour would encourage public dialog and participation in that station's operations, thereby serving the public interest. See Main Studio and Program Origination Report and Order, 2 FCC Rcd 3215, at 3218 (1987). In recognition of modern times and in an effort to further reduce the regulatory burdens on broadcasters, the Commission now proposes to amend its main studio rule.

3. Specifically, the Commission proposes to replace the existing main studio rule, which is based on the community contour standard, with a new standard that will broaden

broadcaster's choices while maintaining the public's access to a station's main studio. See NPRM, MM Docket No. 97-138, May 28, 1997. The Commission favors a rule that would be both clear and generally applicable. Among other options noted in the NPRM, the Commission seeks comment on the following proposals which will permit a broadcaster to locate a station's main studio: (1) within the principal community contour of any other station licensed to that station's community of license; (2) within a radius of X miles from a common reference point in a station's community of license (e.g., community's city-center coordinates); and (3) at any commonly owned station in the same local market (predicted or measured 5 mV/m for AM stations and predicted 3.16 mV/m for FM stations) if the station is owned by a multiple station owner.

#### **Argument**

4. Although all of the options proposed in the Commission's NPRM will somewhat relax the regulatory burden of the current main studio rule, none of them go far enough, and none serve the central goal of service to a station's community of license. There are also disadvantages to each of the proposals. For example, if a class C FM station is among the broadcast stations assigned to a particular community, any of the other stations assigned to that same community could feasibly locate their station's main studio many miles from the community, as long as that location was within the class C station's city-

grade contour. This does little to advance the Commission's goal of providing service to a station's community of license.

Similarly, locating a station's main studio within a radius of a specified number of miles from a common reference point is also fraught with problems. Instead of lessening regulatory burdens on broadcasters, this scheme will be arbitrary and have little relevance to the goal of providing service to a station's community of license. All that this scheme does is to replace the existing restrictions with other, similarly burdensome restrictions.

Instead, the Commission should adopt a main studio rule that gives broadcasters complete flexibility. Because of technological advances, there is no longer a need for restricting the location of a station's main studio. Broadcasters should be permitted to freely locate a station's main studio where it will be able to provide the best service to the station's viewers and listeners. Today, the ability of a broadcaster to serve its station's community of license no longer depends upon the physical location of a station's main studio. Due to advances in communications technology, the public today has a myriad of access options at its finger tips. As such, the availability and convenience of communication by, for example, telephone, facsimile, electronic mail, and various courier and postal services have drastically changed the meaning of providing reasonable access. While in the past ensuring public dialog and participation in the operations of a station meant providing for reasonable physical

access to a station's main studio, modern times have made personal visits to main studios obsolete. Today, telephone technology alone provides several communications options. For example, a listener can call a particular station's main studio using a regular, cellular, or digital telephone from his or her home, office, or car. A listener can even pick up his or her portable telephone from anywhere and call a station's main studio. Because of such ease of access by telephone, for example, personal visits to a station's main studio are now largely obsolete. As such, broadcasters should now be allowed to freely choose where to locate their stations' main studios.

5. The need for restrictions governing the location of a station's main studio is further obliterated by the fact that the marketplace will ultimately dictate the best location for each broadcaster's main studio. Because a broadcaster's primary obligation is to serve the residents of its station's community of license and surrounding areas, its main studio will be naturally located in places where the broadcaster can be most competitive and best serve its audience. In order for a broadcast station to survive and remain competitive, a broadcast station must maintain consistent and regular contact with the happenings of its community of license and service area. Otherwise, the station will lose listeners, then advertisers, and will ultimately fail. Therefore, broadcasters will locate their stations' main studios in convenient, accessible places because it makes good business sense. Section 73.3526(a)(9) of the Commission's Rules confers

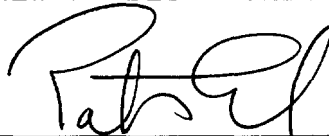
upon broadcasters an affirmative duty to provide community programming that addresses community concerns and to maintain quarterly lists of such issues/programs. It is this rule that insures the fulfillment of the Commission's goal of providing service to the community of license. Allowing broadcasters to freely choose the location of a station's main studio will result in more efficient operations and will in turn allow broadcast stations to better serve the public through their programming.

#### **Conclusion**

Because a broadcaster's primary obligation to serve its community of license no longer depends upon the physical location of a station's main studio, the New Jersey Broadcasters Association urges the Commission to adopt a main studio rule that gives broadcasters complete flexibility in choosing a location for a station's main studio.

Respectfully Submitted,

**NEW JERSEY BROADCASTERS ASSOCIATION**



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By: John F. Garziglia  
Patricia M. Chuh  
Its Attorneys

Dated: August 8, 1997

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